

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA

RICHARD D. MYERS, Bankruptcy trustee for the bankruptcy estate of Donna Jean Lunsford;

Plaintiff,

vs.

CREDIT BUREAU SERVICES, INC., and  
C.J. TIGHE;

Defendants.

**8:20CV141**

**MEMORANDUM AND ORDER**

This matter is before the Court on the plaintiff's objection, [Filing No. 104](#), to the order of the Magistrate Judge, [Filing No. 96](#), granting the defendant's motion for leave to file an amended answer to include a bona fide error affirmative defense, [Filing No. 66](#).

The Magistrate Judge granted the defendants' motion for leave to file an amended answer, stating it was not clear to the Court that the defense was frivolous, untimely, dilatory, brought in bad faith, or prejudicial. [Filing No. 96](#), Order at 4.

A magistrate judge's authority over nondispositive pretrial matters is governed by [28 U.S.C. § 636\(b\)\(1\)\(A\)](#). [Gomez v. United States](#), 490 U.S. 858, 873–74 (1989); see also [Fed. R. Civ. P. 72\(a\)](#). On review of a decision of the magistrate judge on a nondispositive matter, the district court may set aside any part of the magistrate judge's order that it finds is clearly erroneous or contrary to law. [28 U.S.C. § 636 \(b\)\(1\)\(A\)](#); [Fed. R. Civ. P. 72\(a\)](#); see [Ferguson v. United States](#), 484 F.3d 1068, 1076 (8th Cir. 2007). (“A district court may reconsider a magistrate judge's ruling on nondispositive pretrial matters where it has been shown that the ruling is clearly erroneous or contrary to law.”).

A decision is “‘clearly erroneous’ when, although there is evidence to support it, the reviewing court on the entire evidence is left with the definite and firm conviction that a mistake has been committed.” *Chakales v. Comm’r*, 79 F.3d 726, 728 (8th Cir. 1996); see *Ferguson v. United States*, 484 F.3d 1068, 1076 (8th Cir. 2007). A decision is “contrary to the law” when it “fails to apply or misapplies relevant statutes, case law or rules of procedure.” *Knutson v. Blue Cross & Blue Shield of Minnesota*, 254 F.R.D. 553, 556 (D. Minn. 2008) (quoting *Transamerica Life Ins. Co. v. Lincoln Nat. Life Ins. Co.*, 592 F. Supp. 2d 1087, 1093 (N.D. Iowa 2008)).

The plaintiff challenges the Magistrate Judge’s determination that it could not conclude that the proposed amendment was insufficiently plead and that the amendment was not frivolous and its finding that the entire basis of the plaintiff’s 15 U.S.C. § 1692e(2)(a) and § 1692(f)(1) claims were not made clear until Plaintiff responded to Defendants’ interrogatories.

The Court finds no clear error or abuse of discretion in the Magistrate Judge’s determinations. Discovery is not closed and deadlines for written discovery and expert designations were stayed pending a ruling on class certification. The Court agrees that the plaintiff will not be prejudiced by the amendment. Accordingly,

IT IS ORDERED that Plaintiff’s Objection to Magistrate Judge’s Order ([Filing No. 104](#)), is overruled.

Dated this 19th day of January 2022.

BY THE COURT:

s/ Joseph F. Bataillon  
Senior United States District Judge